

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6877

BILL NUMBER: SB 353

NOTE PREPARED: Feb 9, 2009

BILL AMENDED: Feb 5, 2009

SUBJECT: Recovery of Public Money.

FIRST AUTHOR: Sen. Bray

FIRST SPONSOR: Rep. GiaQuinta

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: The bill authorizes an examiner to file a report with the State Examiner and the Attorney General promptly disclosing certain instances of nonfeasance, misfeasance, or malfeasance in the performance of an official duty by a state officer or employee or the letting or performance of a public contract. It permits the Attorney General and other persons acting on behalf of the state, a municipal corporation, a political subdivision, or a school corporation to institute attachment proceedings under certain circumstances, and makes other changes and conforming amendments.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *State Board of Accounts (SBOA)*: The bill requires deputy examiners, field examiners, or private examiners to make reports to the State Examiner when: a substantial amount of public funds has been misappropriated or is unaccounted for; it is likely that they will find that a uniform compliance guideline was not observed, or a specific law was not complied with, or a public contract has not been lawfully executed; or malfeasance, misfeasance, or nonfeasance resulting in the misappropriation of public funds is committed by an official or employee responsible for the accounting of funds. These reports are to be provided to the Attorney General. An average of 20-25 such reports were provided to the Attorney General during 2005-2008. These provisions may increase administrative costs for the SBOA. As of October 31, 2008, the SBOA had 14 vacancies.

Attorney General: This bill provides for the Attorney General to bring a civil action against delinquent employees or the official bond to recover funds. It is unknown how this provision will impact the Attorney General's office because the impact will depend on the extent that civil actions are necessary based upon findings from reports by the SBOA.

Explanation of State Revenues: *Court Fee Revenue:* The impact on civil actions is indeterminable, and would depend on the extent that findings that officials were engaged in the acts that would be included in reports to the Attorney General from the SBOA. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If the number of civil actions filed is impacted, local governments would be impacted due to receiving revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: SBOA; Attorney General.

Local Agencies Affected:

Information Sources: LeGrand Clark, Attorney General's Office, 317-233-6581; *State of Indiana HRM Detail Staffing Report, 10/31/08.*

Fiscal Analyst: Jessica Harmon, 317-232-9854.